



Report to the Houses of Parliament: *Emergencies Act* Consultations

February 16, 2022

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Background and the Requirement to Consult

On February 14, 2022, the Governor in Council declared a public order emergency under the *Emergencies Act*. Section 25 of the Act requires the Governor in Council to consult the Lieutenant Governor in Council of each province with respect to a proposal to declare a public order emergency. A report of these consultations must be laid before each House of Parliament within seven sitting days after the declaration is issued, in accordance with section 58 of the Act.

Engagement

Since the crisis began in late January, federal ministers and officials have continuously engaged provinces and territories, municipalities, and law enforcement agencies to assess the situation and to offer the support and assistance of the Government of Canada. Staff in the Prime Minister's Office and in various Minister's offices had ongoing communications with Premiers' offices and related ministers' offices throughout this period. Examples of engagement with provincial, municipal, and international partners include the following:

- There has been regular engagement with the City of Ottawa in relation to requests for federal support. This includes the request from the City of Ottawa for policing services (February 7, 2022 letter to the Prime Minister from the Ottawa Mayor and the Chair of the Ottawa Police Services Board).
 - The Prime Minister spoke to the Mayor of Ottawa on January 31 and February 8, 2022 about the illegal occupation in Ottawa.
 - Trilateral meetings took place on February 7, 8, and 10, 2022 with the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness, the Minister of Public Safety, the Mayor of Ottawa, the City Manager of Ottawa, and the Chief of Ottawa Police Services. The Minister also spoke with the Solicitor General of Ontario on February 7, 2022 to discuss the work of the tripartite table.
 - Staff from the Office of the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness have been in regular contact with the Office of the Premier of Ontario, as well as the Deputy Mayor of Ottawa.
 - The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness also spoke with the President of the Canadian Association of Chiefs of Police on February 3 and 13, 2022 on support for the Ottawa Police Service.

- The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness also spoke with the President of the Federation of Canadian Municipalities on February 3, 2022 about the situation in Ottawa.
- There has also been regular engagement with municipal and provincial officials concerning the Ambassador Bridge, including on a request for assistance received from the City of Windsor on February 9, 2022.
 - The Prime Minister spoke with the Premier of Ontario on February 9, 2022, and the Minister of Intergovernmental Affairs, Infrastructure and Communities spoke with the Premier of Ontario (February 10 and 11, 2022) regarding measures being taken by the Province in relation to the Ambassador Bridge.
 - The Prime Minister spoke to the Mayor of Windsor on February 10, 2022 about the blockade at the Ambassador Bridge.
 - The Prime Minister spoke with the President of the United States on February 11, 2022. The leaders discussed the critical importance of resolving access to the Ambassador Bridge and other ports of entry as quickly as possible.
 - The Minister of Transport spoke with Ontario's Minister of Transportation on February 9, 2022 about the blockades at border crossings. The Minister also spoke with the Mayor of Windsor on February 11, 2022 concerning the Ambassador Bridge.
 - Staff from the Office of the President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness and the Office of the Minister of Intergovernmental Affairs, Infrastructure and Communities have also been in regular contact with the City of Windsor.
- The Minister of Public Safety engaged the Premier of Ontario on February 9, 2022. The Minister has also been in regular contact with the Mayor of Ottawa and the Mayor of Windsor, including through the tripartite discussions. His staff have also engaged with both Mayors' offices. The Office of the Minister of Intergovernmental Affairs, Infrastructure and Communities engaged the Office of the Minister of Transportation of Ontario on February 7, 2022, and was in regular contact with the Office of the Premier of Ontario.
- The Office of the Prime Minister has also had ongoing discussions with the Office of the Premier of Ontario regarding the Ottawa, Windsor, and Sarnia blockades in the weeks leading up to the declaration. These conversations made it clear that more federal support was needed.

- There has been regular engagement with provincial officials concerning the Coutts port of entry, including the Province's request for assistance in relation to tow truck capacity (February 5, 2022 letter to Ministers of Public Safety and Emergency Preparedness from the Alberta Minister of Municipal Affairs).
 - The Minister of Public Safety engaged with the Premier of Alberta on February 2 and 9, 2022, and with the Premier and the Acting Minister of Justice and Solicitor General of Alberta on February 7, 2022. The Minister also engaged the Acting Minister of Justice and Solicitor General of Alberta on February 1, 5, and 9, 2022.
 - The Minister of Transport spoke with Alberta's Minister of Transportation on February 5 and 9, 2022.
 - The Minister of Intergovernmental Affairs, Infrastructure and Communities communicated with the Premier of Alberta on February 10 and 11, 2022.
- Ministers also engaged counterparts in other provinces:
 - The Minister of Transport spoke with Manitoba's Minister of Transportation and Infrastructure on February 12, 2022 concerning the Emerson port of entry.
 - The President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness spoke with the Minister of Public Safety and Solicitor General and Deputy Premier of British Columbia on February 5 and 13, 2022 to discuss protests in Victoria and how the federal government could assist if circumstances required, including mutual emergency legislation.
 - In support of his Cabinet colleagues and on behalf of the Prime Minister, the Minister of Intergovernmental Affairs, Infrastructure and Communities also communicated with the premiers of Nova Scotia (February 12, 2022), New Brunswick (February 12, 2022), Newfoundland and Labrador (February 12, 2022), and British Columbia (February 13, 2022) to ask about the current status and to offer federal support to help the provinces respond to the disruption and blockades.

Federal, provincial, and territorial (FPT) officials have also met on a multilateral and bilateral basis, including the following:

- Public Safety Canada officials shared information on the ongoing situation and the use of authorities. This included:

- The FPT Crime Prevention and Policing Committee (CPPC) held an ad hoc meeting on February 7, 2022 at the deputy minister level.
- The FPT CPPC Committee met at the assistant deputy minister level on February 1 and 11, 2022.
- Discussions took place with assistant deputy ministers from Ontario, Manitoba, and Alberta on February 13, 2022, and with Ontario and Manitoba on February 14, 2022.
- Transport Canada officials gathered and shared information with PT transport ministries on PT tools/actions being considered to manage the convoys, including potential infraction and enforcement regimes under the respective jurisdictions' motor vehicle safety legislation. This included:
 - The ADM-level table of the Council of Ministers Responsible for Transportation and Highway Safety met twice, on February 4 and 8, 2022.
 - Calls took place with Alberta and Ontario on February 5, 2022, with Ontario on February 6 and 7, 2022, and with Alberta on February 7, 2022.

The Government of Canada also engaged Indigenous leaders regarding the blockades. For example, the Minister of Crown-Indigenous Relations spoke with the National Chief of the Assembly of First Nations, the President of the Inuit Tapiriit Kanatami, the President of the Métis National Council, the Grand Chief of Akwesasne, and the Grand Chief of the Manitoba Southern Chief's Organization.

The decisions on next steps and to consult premiers on the *Emergencies Act* was informed by all of the federal ministerial and senior official engagement with provinces since the onset of the crisis.

Consultations on the Emergencies Act with First Ministers

The Prime Minister convened a First Ministers' Meeting on February 14, 2022, to consult premiers on whether to declare a public order emergency under the *Emergencies Act*. The Prime Minister was joined by the Minister of Intergovernmental Affairs, Infrastructure and Communities, the Minister of Justice and Attorney General of Canada, and the Minister of Public Safety. All premiers participated.

The Prime Minister explained why the declaration of a public order emergency might be necessary and formally consulted premiers. The Minister of Justice outlined potential measures the Government of Canada was contemplating to take under the *Emergencies Act* to supplement the measures in the provinces' jurisdiction and respond to the urgent and

unprecedented situation. The Prime Minister asked what measures could be supplemented through the *Emergencies Act* by using proportional, time-limited authorities.

Each premier was given the opportunity to provide his/her perspectives on the current situation – both nationally and in their own jurisdiction – and whether a declaration of public order emergency should be issued. A variety of views and perspectives were shared at the meeting. Some premiers indicated support for the proposed measures as necessary to resolve the current situation, noting they would be focused on targeted areas, time-limited, and would be subject to ongoing engagement. Other premiers did not feel the *Emergencies Act* was needed at this time, arguing that provincial and municipal governments have sufficient authority to address the situation in their respective jurisdictions. Some premiers expressed caution that invoking the *Emergencies Act* could escalate the situation.

While the views expressed at the First Ministers' Meeting were shared in confidence, premiers provided their perspectives in public statements following the First Ministers' Meeting.

- The Premier of Ontario said he supports the federal government's decision to provide additional tools to help police resolve the situation in the nation's capital. He said he expressed to the Prime Minister that these measures should be targeted and time-limited.
- The Premier of Newfoundland and Labrador said that he supports invoking the *Emergencies Act* on a time limited basis to bolster the response to deal with unacceptable behaviour within blockades, infringing on the rights of law-abiding Canadians.
- British Columbia's Minister of Public Safety and Solicitor General and Deputy Premier also said that the Province supported the use of the *Emergencies Act*, according to media reports.
- The Premier of Quebec said that he opposed the application of the *Emergencies Act* in Quebec, stating that municipal police and the Sûreté du Québec have control of the situation, and arguing that the use of the Act would be divisive.
- The Premier of Alberta tweeted that Alberta's Government is opposed to the invocation of the *Emergencies Act*, arguing that Alberta has all the legal tools and operational resources required to maintain order. He also expressed concern that invocation of the *Emergencies Act* could escalate a tense situation.
- The Premier of Saskatchewan issued the following tweet: "The illegal blockades must end, but police already have sufficient tools to enforce the law and clear the blockades, as they did over the weekend in Windsor. Therefore, Saskatchewan does not support the Trudeau government invoking the *Emergencies Act*. If the federal government does proceed with

this measure, I would hope it would only be invoked in provinces that request it, as the legislation allows.”

- The Premier of Manitoba issued a statement in which she noted that the situation in each province and territory is very different and she is not currently satisfied the *Emergencies Act* should be applied in Manitoba. She said that in her view, the sweeping effects and signals associated with the never-before-used *Emergencies Act* are not constructive in Manitoba, where caution must be taken against overreach and unintended negative consequences.
- The Premier of New Brunswick, the Premier of Nova Scotia, and the Premier of Prince Edward Island have also commented that they do not believe the *Emergencies Act* is necessary in their respective provinces, stating that policing services have sufficient authority to enforce the law.
- The premiers of Yukon, the Northwest Territories, and Nunavut provided feedback during the First Ministers’ Meeting, although have not issued public statements.

During the First Ministers’ Meeting, the Prime Minister emphasized that a final decision had not yet been made, and that the discussion amongst First Ministers would inform the Government of Canada’s decision.

There was further engagement with provinces following the First Ministers’ Meeting and prior to the Government of Canada’s decision to declare a public order emergency on February 14, 2022:

- The Office of the Prime Minister spoke with the Office of the Premier of British Columbia, as Chair of the Council of the Federation, before the Government of Canada’s decision was made on February 14, 2022 to offer briefings to premiers’ offices, and to explain the role of provinces and territories under the *Emergencies Act*.
- The Minister of Intergovernmental Affairs, Infrastructure and Communities communicated with his Quebec counterpart on the *Emergencies Act*. The Minister of Canadian Heritage and Quebec Lieutenant also connected with Quebec’s Deputy Premier and Minister of Public Safety and Quebec’s Minister of Finance, and officials from the Prime Minister’s Office engaged with the Office of the Premier of Quebec.
- The Minister of Intergovernmental Affairs, Infrastructure and Communities also engaged the Premier of Ontario and received feedback from the Premier of Saskatchewan.

- The Office of the Prime Minister spoke with the Office of the Premier of Ontario and the Office of the Premier of Newfoundland and Labrador on February 14, 2022 to explain the rationale and implementation of the *Emergencies Act*.

The Prime Minister considered all of the comments shared at the First Ministers' Meeting, as well as the many other sources of information and intelligence. He announced his intention to invoke the *Emergencies Act* with targeted, time-limited measures that would complement provincial and municipal authorities late in the day on February 14, 2022.

On February 15, 2022 the Prime Minister wrote to all premiers, outlining the reasons why the Government of Canada decided to declare a public order emergency and described the types of measures that would be available under the Act. The letter responded to issues raised during the discussion, particularly on whether the declaration of a public order emergency should apply nationally. For example, the letter emphasized that the measures would be applied to targeted areas; that measures would supplement, rather than replace, provincial and municipal authorities; that these are tools that could be employed by police of local jurisdiction, at their discretion; and that the Royal Canadian Mounted Police would be engaged only when requested by local authorities. The letter also emphasized the Government of Canada's strong interest in further engagement and collaboration with provinces and territories on these issues.

Next Steps

Consistent with the *Emergencies Act's* requirements, the Government of Canada is committed to ongoing consultation and collaboration with the provinces and territories to ensure that the federal response complements the efforts of their governments. Ongoing consultation will also be necessary should there be a need to modify or extend existing orders under the *Emergencies Act*.

Supported by their officials, Ministers engaged with their counterparts following the First Ministers' Meeting, and will continue to engage provinces and territories on an ongoing basis. They will be available to quickly respond to specific issues or situations, as they arise. More recent engagement includes:

- The Minister of Justice and Attorney General of Canada spoke with his Quebec counterpart on February 14, 2022 about the *Emergencies Act*.
- The Minister of Transport spoke with British Columbia's Minister of Transportation and Infrastructure on February 14, 2022 about blockades at border crossings. The Ministers discussed how the *Emergencies Act* can assist law enforcement.

- The Minister of Transport spoke with Nova Scotia's Minister of Public Works on February 15, 2022 and provided an overview of the emergency measures being taken under the *Emergencies Act*.
- On February 15, 2022, representatives from the Justice Minister's Office spoke with the Mayor of Winnipeg about the *Emergencies Act*. In a statement on February 15, 2022, the Mayor said he is grateful the federal government is "taking action to make additional tools available to assist with the quick and peaceful end to the unlawful occupations."
- A briefing for PT Deputy Ministers of Intergovernmental Affairs took place on February 15, 2022. A follow-up meeting is scheduled for February 17, 2022. FPT Deputy Ministers of Intergovernmental Affairs will continue to engage on these issues through regular and ongoing communications.
- A briefing is planned for February 16, 2022 for Assistant Deputy Ministers in provincial and territorial ministries of Public Safety, Transportation, the Solicitor General, and Intergovernmental Affairs.
- Collaboration through policing services will also continue. On February 15, 2022, the Interim Chief of the Ottawa Police Service stated that with new resources from policing partners and tools from both the provincial and federal governments, the Ottawa Police Service believe they now have the resources and power to bring a safe end to this occupation. Ottawa's Deputy Police Chief further commented that there is collaboration on the application of the *Emergencies Act* in Ottawa.
- There will be weekly engagement by the Minister of Public Safety with his provincial and territorial counterparts.

The Government of Canada will continue to gather and assess feedback through these ongoing engagements to assess the orders and regulations under the *Emergencies Act* and to ensure a coordinated and effective response on behalf of Canadians.

Annex:

- Letter from the Prime Minister to premiers

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Dear Premier:

I would like to thank you for the productive conversation we had at the First Ministers' Meeting on February 14, 2022, where we consulted you on the declaration of a public order emergency under the *Emergencies Act*.

I recognize many Canadians, including myself, are frustrated with the pandemic, and with having our lives disrupted for two years. However, while some protestors have participated to demonstrate their fatigue and frustration with public health measures, this is no longer the motivation of many of the participants and organizers. We are seeing activity that is a threat to our democracy and that is undermining the public's trust in our institutions.

The Government of Canada believes firmly in the right to peaceful protest. But as we discussed, the activities taking place across the country have gone well beyond peaceful protest. These are organized events, and the situation is very volatile. While this may have started in Ottawa, we are seeing flare-ups in almost every jurisdiction.

We are facing significant economic disruptions, with the breakdown of supply chains. This is costing Canadians their jobs and undermining our economic and national security, with potentially significant impacts on the health and safety of Canadians. It is affecting Canada's reputation internationally, hurting trade and commerce, and undermining confidence and trust in our institutions.

Given that this situation is escalating, we each have to look at all possible measures to resolve the current challenges as quickly as possible. We believe that we have reached the point where there is a national emergency arising from threats to Canada's security. That is why the Government of Canada has determined it is necessary to take action to protect Canadians and safeguard our economy by declaring a public order emergency under the *Emergencies Act*.

The declaration of a public order emergency serves as authority for Canada to enact measures under paragraph 19(1) of the *Emergencies Act*. During our

call, Minister Lametti highlighted six types of temporary, time-limited measures that could be adopted under the *Emergencies Act*:

1. Regulation and prohibition of public assemblies that lead to a breach of the peace other than lawful advocacy, protest, or dissent

What we are seeing in Ottawa and at the Ambassador Bridge are not lawful protests. Examples of measures could include: prohibiting minors from participating in an unlawful activity; prohibiting foreign nationals from entering Canada to participate in an illegal gathering; removing foreign nationals from Canada when appropriate; and adding to the list of offences that qualify as inadmissible criteria for entry into Canada.

2. Designating and securing places where blockades are to be prohibited

This could include geographically limited application at borders, approaches to borders, other critical infrastructure, or the City of Ottawa.

3. Directing persons to render essential services to relieve impacts of blockades on Canada's economy

This could include tow trucks and their drivers, for compensation.

4. Authorizing or directing financial institutions to render essential services to relieve impact of blockades

This could include regulating and prohibiting the use of property to fund or support the blockades.

5. Measures enabling the RCMP to enforce municipal by laws and provincial offences where required, and if asked by local authorities

All measures enacted pursuant to the *Emergencies Act* would be enforceable by municipal and provincial police services; the RCMP can contribute if asked to do so.

6. The imposition of fines or imprisonment for contravention of any order or regulation made under section 19 of the *Emergencies Act*

Our Government recognizes the importance of coordinating with provinces, territories, and municipalities to ensure the safety and security of Canadians.

Targeted, time-limited, and proportional measures under the *Emergencies Act* would provide further support to police within your jurisdiction. This is not about displacing provincial or territorial jurisdiction, or superseding measures you have in place. This is about supplementing measures in your jurisdiction with additional legal authorities to give local law enforcement the maximum leverage to be able to uphold the rule of law and deal with the situation we are facing. We are not proposing to have the RCMP or any other authority supplant local law enforcement; rather, we wish to expand the range of tools available to law enforcement at all levels. We want to ensure that the federal response complements the efforts that your governments and municipalities continue to make to bring stability to the nation. The federal government continues to stand by to assist with resource asks, if and when required, to deal with the current situation.

I appreciate the views you shared yesterday on our call and I can assure you that they have been taken into account in the approaches we are taking, and will also inform the consultation report which will be tabled with the motion confirming the declaration. In addition to our discussions to date, briefings and discussions amongst officials in the coming days will also be useful. Consultation and coordination will continue to be essential on implementation which is consistent with the requirements of the *Emergencies Act* for consultations.

I would like to thank you, once again, for the discussion we have had on the *Emergencies Act* and I look forward to continue to get your perspective through this ongoing, consultative process. The federal government will continuously monitor and assess the implementation of the powers and authorities under the *Emergencies Act*, and stands ready to be able to respond to any need that emerges from premiers. The Minister of Public Safety will also have regular updates with his counterparts. Please follow up with me, or with Ministers Lametti, Mendicino, or LeBlanc, should you wish to discuss these matters further.

I am forwarding, for their information, a copy of this letter to David Lametti, Minister of Justice and Attorney General of Canada; Chrystia Freeland, Deputy Prime Minister and Minister of Finance; William Sterling Blair,

President of the Queen's Privy Council for Canada and Minister of Emergency Preparedness; Marco E. L. Mendicino, Minister of Public Safety; and Dominic LeBlanc, Minister of Intergovernmental Affairs, Infrastructure and Communities.

Sincerely,